

*City of Las Vegas*

**AGENDA MEMO**

**PLANNING COMMISSION MEETING DATE: JANUARY 10, 2008**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: VAR-25763 - APPLICANT/OWNER: WILLIAM AND DEBRA BURGOS**

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**\*\* CONDITIONS \*\***

**STAFF RECOMMENDATION: DENIAL.** If Approved, subject to:

**Planning and Development**

1. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**VAR-25763 - Staff Report Page One**  
**January 10, 2008 - Planning Commission Meeting**

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This is a request for a Variance to allow a proposed 19.25 foot high, 2,400 square-foot Class II Detached Non-Habitable Accessory Structure (barn/storage shed) to exceed 50 percent of the floor area and be three feet taller than the primary structure. The 2,180 square foot residence is 16.25 foot in height. Fifty percent of the primary dwelling would allow a 1,090 square-foot accessory structure on 1.04 acres at 6161 Jo Marcy Drive.

This is a self-imposed hardship due to the applicant's design choice; therefore, staff recommends denial of this request.

**BACKGROUND INFORMATION**

<i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i>	
1964	A-0006-64
Related Building Permits/Business Licenses	
11/02/89	Patio Cover (Permit # 89044436)
Pre-Application Meeting	
11/07/07	Applicant described the size and use of building being constructed. Staff explained the Title 19.08.040 requirements for a Class II Accessory Structure. The applicant was given instructions to submit a Variance request to exceed the size and height of the primary structure.
Neighborhood Meeting	
A neighborhood meeting is not required, nor was one held.	
Field Check	
12/06/07	A field check of the site was made with the following observations: <ul style="list-style-type: none"> <li>Existing single-story, single family dwelling.</li> <li>A shade structure and fencing exists in the rear portion of the parcel lot.</li> <li>The subject parcel is located in an area where many of the neighboring properties have barn structures for livestock.</li> <li>Unable to determine grade change in rear yard.</li> </ul>

Details of Application Request	
Site Area	
Net Acres	1.04

**VAR-25763 - Staff Report Page Two**  
**January 10, 2008 - Planning Commission Meeting**

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Residential	DR(Desert Rural Residential)	R-E(Residence Estates)
North	Residential	DR(Desert Rural Residential)	R-E(Residence Estates)
South	Residential	DR(Desert Rural Residential)	R-E(Residence Estates)
East	Residential	DR(Desert Rural Residential)	R-E(Residence Estates)
West	Undeveloped	DR(Desert Rural Residential)	R-E(Residence Estates)

Special Districts/Zones	Yes	No	Compliance
Special Area Plan / Centennial Hills			
Special Districts/Zones	Yes	No	Compliance
Special Purpose and Overlay Districts			
Trails		X	N/A
Rural Preservation Overlay District	X		Y
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

### **Rural Preservation Neighborhood**

The subject site falls within a Rural Preservation Neighborhood 330-foot buffer zone. The Rural Preservation Neighborhood designated parcels surround the subject site and are located within the City of Las Vegas. Nevada Revised Statute 278 limits residential development within this 330-foot buffer zone to an average density of three residential dwelling units per acre. The development's proposed density of 1.86 dwelling units per acre is within the parameters of the rural preservation neighborhood legislation.

### **DEVELOPMENT STANDARDS**

Standard	Required/Allowed	Provided	Compliance
Min. Lot Size	20,000 sq. ft.	45,296 sq.ft.	Y
Min. Lot Width	100 feet	152 feet	Y
Min. Setbacks for Accessory Structure Side & Rear Property Lines	3 feet	12 feet	Y
Separation from Primary Structure	6 feet	135 feet	Y
Max. Accessory Structure Size (50% of 2,180 sq. ft. primary structure)	1,090 sq. ft.	2400 sq. ft.	N
Max. Accessory Structure Height	1-story/16 feet 3 inches (primary structure height)	19 feet, 3 inches	N

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**VAR-25763 - Staff Report Page Three**  
**January 10, 2008 - Planning Commission Meeting**

## **ANALYSIS**

The applicant proposes to construct a 2,400 square foot Class II Detached Accessory, (60' X 40') barn/storage shed, on the back portion of his one-acre residentially zoned property. An existing 2,180 sq ft single family dwelling is located at 6161 Jo Marcy Drive. As shown on the submitted site plan the proposed barn/shed is 220 square feet larger than the residence. A Detached Accessory Structure may be no more than 50% the size of the main dwelling, which would allow the barn to be 1,090 square feet. At 2,400 sq feet the structure is 1,310 square feet or 54% larger than the allowable 1,090 square feet.

A detached accessory structure may not be taller than the main dwelling. The submitted elevations indicate the main dwelling is 16 feet 3 inches in height to the top of the roof and the proposed barn is 19 feet 3 inches to the highest point on the roof. Indicated on the elevation is a slope 2.5 to 3 feet lower from the back yard of the residence to the back of the parcel, the barn would be sitting on lower ground and would put the barn at approximately the same height of the house. The proposal complies with required setbacks from the side property lines and primary structure, the proposal does not meet the size restrictions as listed in Title 19.08.040.

Although the height and size of the building exceed the allowable size, it should be noted that this property is located in an area of sizeable lots with barns that are used for the keeping of livestock. A barn to provide hay storage and shelter for large animals is not unusual in the area or on a property of this size.

The request for the Variance stems from a self-imposed hardship that could be eliminated with alternative designs. Therefore, staff recommends denial.

## **FINDINGS**

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature."

Additionally, Title 19.18.070L states:

"Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the

**VAR-25763 - Staff Report Page Four**  
**January 10, 2008 - Planning Commission Meeting**

relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by designing a Class II Detached Accessory Structure that is oversized in floor area and height in comparison to the existing primary structure. An alternative proposal in reduced size would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

7

**ASSEMBLY DISTRICT** 13

**SENATE DISTRICT** 9

**NOTICES MAILED** 108

**APPROVALS** 0

**PROTESTS** 0